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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,561	04/03/2001	Cindy A. Sprecher	00-22	2838

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EXAMINER

LI, RUIXIANG

ART UNIT PAPER NUMBER

1646

12

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,561

Applicant(s)

SPRECHER

Examiner

Ruixiang Li

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/17/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 31-33 and 35-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-24, 38-47 and 53-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-33, 35-37 and 48-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicants' election without traverse of Group II, Claims 25-37 in Paper Nos. 8 and 11 is acknowledged. Applicants further elected polypeptide sequences of SEQ ID NO: 10 and SEQ ID NO: 4 in response to the species election requirement in paper No. 10.
2. Applicants' amendment in Paper No. 9 has been entered in full. Claims 25-30 and 34 have been canceled. New claims 48-60 have been added. New claims 48-52 are related to elected invention Group II. Claims 1-24, 31-33, and 35-60 are pending. Claims 31-33, 35-37, and 48-52 are under consideration. All other claims have been withdrawn from further consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Priority

3. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. 119(e) to provisional applications, 60/194,731 (filed on April 5, 2000) and 60/222,121 (filed on July 28, 2000).

Claim Rejections—35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1646

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 31 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Novak et al. (U.S. Patent No. 6,307,024, October 23, 2001; filed upon March 9, 2000).

Novak et al. teach the exactly same Zalpha11 cytokine receptor recited by the instant claims (Abstract; column 6, last paragraph) comprising an amino acid sequence of SEQ ID NO:6 (See attached sequence alignment). The Zalpha11 cytokine receptor binds to a Zalpha11 ligand (See, e.g., Claim 1) comprising the amino acid sequence of SEQ ID NO: 10 (See attached sequence alignment). The Zalpha11 cytokine receptor, by its nature, forms a heterodimeric or multimeric receptor complex.

6. Claims 31-33, 35-37, and 48-52 are rejected under 35 U.S.C. 102(a) as being anticipated by Presnell et al. (WO 00/17235, March 30, 2000).

Presnell et al. teach the exactly same Zalpha11 cytokine receptor recited by the instant claims (Abstract) comprising an amino acid sequence of SEQ ID NO:6 (See attached sequence alignment). The Zalpha11 cytokine receptor has been identified as a class I cytokine receptor (page 14, line 22). By its nature, the

receptor forms a heterodimeric or multimeric receptor complex (page 13, lines 18-22; page 25, last paragraph; page 57, 2nd paragraph; page 72, last paragraph) and binds to a Zalpha11 ligand comprising SEQ ID NO: 10.

Presnell et al. also teach multimeric receptors including homodimers, heterodimers, and multimers having component subunits with disparate functions, such as IL-2 receptor (page 24, line 28-page 25, line 2; page 25, 2nd paragraph). Since IL-2 receptor is a soluble Class I cytokine receptor and it comprises IL-2 R γ (please note that SEQ ID NO: 4 is the first 232 amino acids—the extracellular domain—of IL-2R γ), it is reasonably concluded that the Zalpha11 cytokine receptor complex taught by Presnell et al. comprises SEQ ID NO: 4.

Presnell et al. further teach use of an affinity tag to denote the receptor polypeptide (See, e.g., page 9, last but one paragraph; Claim 38).

Accordingly, the reference taught by Presnell et al. meets the limitations of Claims 31-33, 35-37, 48-52.

Claim Objections—Minor Informalities

7. Claims 31-33, 37, 49, 50, and 52 are objected to because these claims recite an unelected subject matter (an amino acid sequence). Appropriate correction is required.
8. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (703) 306-0282. The examiner can normally be reached on Monday-Friday, 8:30 am-5:00 pm.

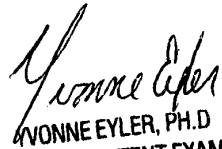
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564. The fax phone number for this Group is (703) 305-3014 or (703) 308-4242.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [yvonne.eyler@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Ruixiang Li
Examiner
July 3, 2002


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SUPERVISORY PATENT EXAMINER
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